

**ADOPTED REGULATION OF THE
NEVADA TRANSPORTATION AUTHORITY**

LCB File No. R111-10

Effective December 16, 2010

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1, 4 and 7-9, NRS 706.171; §2, NRS 706.171 and 706.321; §3, NRS 706.171, 706.475 and 706.692; §§5, 6, 10 and 12, NRS 706.171 and 706.173; §11, NRS 706.475.

A REGULATION relating to motor carriers; establishing the rate for a fuel surcharge charged and collected by carriers authorized to provide charter service by limousine; providing that the Nevada Transportation Authority will deem a driver of a taxicab to be on duty under certain circumstances; defining the circumstances under which purchasers or brokers of certain transportation services who resell those services are providing charter service by bus; prohibiting certain motor carriers from allowing certain persons to drive a limousine under certain circumstances; removing a federal regulation prohibiting alcohol possession by certain motor carriers and drivers from regulations enforced by the Authority; revising provisions concerning the commission or referral fee paid by carriers that provide scenic tours to agents who arrange for the provision of scenic tours; revising provisions governing certain taxicab carriers and drivers of taxicabs; and providing other matters properly relating thereto.

Section 1. Chapter 706 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *In addition to the rates and fares included in the tariff on file with the Authority, a carrier authorized to provide charter service by limousine may charge and collect from the carrier's passengers a fuel surcharge in an amount determined pursuant to this section.*

2. A carrier authorized to provide charter service by limousine who charges and collects a fuel surcharge shall compute the amount of the fuel surcharge on an hourly basis in accordance with the following table:

<i>Fuel Price:</i>	<i>Surcharge per Hour:</i>
<i>\$2.25-2.74</i>	<i>\$2.00</i>
<i>\$2.75-3.24</i>	<i>\$3.00</i>
<i>\$3.25-3.74</i>	<i>\$4.00</i>
<i>\$3.75-4.24</i>	<i>\$5.00</i>
<i>\$4.25-4.74</i>	<i>\$6.00</i>

<i>Fuel Price:</i>	<i>Surcharge per Hour:</i>
<i>\$4.75-5.24</i>	<i>\$7.00</i>
<i>\$5.25-5.74</i>	<i>\$8.00</i>
<i>\$5.75-6.24</i>	<i>\$9.00</i>
<i>\$6.25-6.74</i>	<i>\$10.00</i>

3. For the purposes of the table set forth in subsection 2, the fuel price must be determined in the following manner:

(a) For a limousine which does not use diesel fuel, the fuel price is an amount equal to the retail price per gallon of regular fuel effective for the 25th calendar day of the immediately preceding month according to the United States Department of Energy, Energy Information Administration survey on Weekly Retail Gasoline and Diesel Prices, Regular Grade - West Coast (PADD 5).

(b) For a limousine which uses diesel fuel, the fuel price is an amount equal to the retail price per gallon of diesel effective for the 25th calendar day of the immediately preceding

month according to the United States Department of Energy, Energy Information Administration survey on Weekly Retail Gasoline and Diesel Prices, Diesel, All Types - West Coast (PADD 5).

4. The fuel prices described in paragraphs (a) and (b) of subsection 3 may be obtained by calling the United States Department of Energy, Energy Information Administration at (202) 586-8800 or on the Internet website of the United States Department of Energy, Energy Information Administration at www.eia.doe.gov.

5. A carrier authorized to provide charter service by limousine who intends to charge and collect a fuel charge pursuant to this section shall include in its tariff on file with the Authority the table and rules set forth in this section.

Sec. 3. *The Authority will deem that a driver of a taxicab who is operating a taxicab is on duty and working his or her shift and is subject to the provisions of this chapter and chapter 706 of NRS.*

Sec. 4. NAC 706.034 is hereby amended to read as follows:

706.034 1. “Charter service by bus” means the prearranged transportation of persons who have acquired the exclusive use of a bus for a particular itinerary under a single contract and at a fixed charge for the bus, which is consistent with the tariff filed by the carrier, for the duration of the charter.

2. Except as otherwise provided in paragraph (d) of subsection 3, the term includes services sold to a broker at an hourly rate only, for resale by the broker in combination with other services or facilities not related to transportation at per capita rates or at hourly rates, as necessary. *As used in this subsection, “in combination with other services or facilities not related to*

transportation” means transportation purchased by a purchaser or broker and resold by the purchaser or broker for the purpose of transporting passengers, under a single contract, for a particular itinerary between a definite point of origin and a location where services or facilities other than, or unrelated to, transportation are provided by the purchaser or broker for its benefit or for the benefit of a third party, including, without limitation, malls, the place of employment of passengers or other similar locations or facilities.

3. The term does not include:

- (a) Scenic tours;
- (b) Special services;
- (c) Airport transfer services;
- (d) Service which will be resold by the broker for scenic tours or airport transfer services; or
- (e) The carriage of property or cargo not belonging to the group of passengers being transported.

Sec. 5. NAC 706.229 is hereby amended to read as follows:

706.229 1. In addition to the applicable requirements set forth in 49 C.F.R. §§ 391.1, 391.2, 391.11(a), 391.11(b)(1) to 391.11(b)(4), inclusive, 391.11(b)(6), 391.11(b)(7), 391.11(b)(8), 391.13, 391.15, 392.2, 392.3, 392.4, 392.5 and 392.9 and 49 C.F.R. Parts 40, 382, 390, 393 and 397, a certificate holder shall not allow an employee to drive a traditional limousine or livery limousine unless the employee:

- (a) Is at least 21 years of age and has a valid Nevada driver’s license or is a border state employee, as that term is defined in NRS 483.035; ~~and~~

(b) Provides to the certificate holder, on or before the date on which the employee becomes employed by the certificate holder as the driver of a traditional limousine or livery limousine:

(1) A certificate from a licensed physician which is dated not more than 90 days before the date on which the employee becomes so employed by the certificate holder and which demonstrates that the employee is physically qualified to operate a commercial motor vehicle in accordance with 49 C.F.R. § 391.43; and

(2) A copy of the driving record of the employee which is obtained from the Department and which demonstrates that the employee has not, within the 3 years immediately preceding the date on which the employee becomes so employed by the certificate holder:

(I) Been convicted of driving under the influence of an intoxicating liquor or a controlled substance;

(II) Been convicted of reckless driving;

(III) Been convicted of failing to stop and remain at the scene of an accident; or

(IV) Failed to keep a written promise to appear in court for any offense H; and

(c) Within the 3 years immediately preceding the date on which the employee submitted to the certificate holder an application to be a driver of a traditional limousine or livery limousine:

(1) Has not failed to appear for a hearing before the Authority which resulted in the employee being found to have violated a provision of this chapter or chapter 706 of NRS;

(2) Has not been found by the Authority to have violated the provisions of this chapter or chapter 706 of NRS more than five times; and

(3) Has not failed to pay on or before the due date any fine assessed against the employee by the Authority.

2. Each employee shall update annually the documents required pursuant to paragraph (b) of subsection 1.

3. A certificate holder shall retain a copy of each document submitted by an employee pursuant to this section for at least 3 years after his employment has terminated.

4. The Authority will create and maintain a list of persons who are not qualified to drive a traditional limousine or livery limousine pursuant to paragraph (c) of subsection 1.

Sec. 6. NAC 706.247 is hereby amended to read as follows:

706.247 1. The Department, the Department of Public Safety and the Authority hereby adopt by reference the regulations contained in 49 C.F.R. Parts 40, 382, 383, 385, 387, 390 to 393, inclusive, 395, 396 and 397, and Appendices B and G of 49 C.F.R. Chapter III, Subchapter B, as those regulations existed on October 1, 2005, with the following exceptions:

(a) References to the Department of Transportation and the Federal Motor Carrier Safety Administration are amended to refer to the Department and the Authority.

(b) References to the Administrator of the Federal Motor Carrier Safety Administration and to the Director are amended to refer to the Director of the Department and the Chairman.

(c) Section 391.11(b)(1) applies only to drivers of commercial motor vehicles who:

(1) Operate in interstate transportation;

(2) Transport passengers intrastate; or

(3) Transport hazardous material of a type or quantity that requires the vehicle to be marked or placarded in accordance with 49 C.F.R. §§ 172.300 and 172.500.

(d) *Section 392.5(a)(3) will not apply to motor carriers authorized to provide intrastate charter service by limousine or to the drivers of those motor carriers.*

(e) References to special agents in Appendix B of 49 C.F.R. Chapter III, Subchapter B, are amended to include personnel of the Department and the Authority.

~~(e)~~ (f) The definition of “motor carrier” in 49 C.F.R. §§ 390.5 and 397.65 is amended to read:

“Motor carrier” includes, without limitation, interstate and intrastate common, contract and private carriers of property and passengers, including, without limitation, their agents, officers and representatives.

~~(f)~~ (g) The definition of “commercial motor vehicle” in 49 C.F.R. §§ 382.107, 385.3 and 390.5 is amended to read:

“Commercial motor vehicle” means any self-propelled or towed vehicle used on public highways in:

1. Interstate commerce to transport passengers or property if the vehicle:
 - (a) Is designed to transport more than eight passengers, including, without limitation, the driver;
 - (b) Is used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued by the Secretary pursuant to 49 U.S.C. §§ 103, 104 and 106; or

(c) Has a gross vehicle weight rating, gross combination weight rating or gross vehicle weight of 10,001 or more pounds, whichever is greater.

2. Intrastate commerce to transport passengers or property if the vehicle:

(a) Is one described in paragraph (a) or (b) of subsection 1;

(b) Has a gross vehicle weight rating, gross combination weight rating or gross vehicle weight of 26,001 or more pounds, whichever is greater; or

(c) Is owned or operated by a motor carrier subject to the jurisdiction of the Nevada Transportation Authority, except that any vehicle so owned or operated is subject only to the provisions of 49 C.F.R. §§ 392.2, 392.4, 392.5 and 392.9 and 49 C.F.R. Parts 40, 382, 383, 385, 390, 391, 393, 395, 396 and 397 if the vehicle is not one described in paragraph (a) or (b) . ~~for being used pursuant to the exemption from hours of service limitations set forth in NRS 706.687.]~~

2. To enforce these regulations, enforcement officers of the Department and the Authority may, during regular business hours, enter the property of a carrier to inspect its records, facilities and vehicles, including, without limitation, space for cargo and warehouses.

3. The volume containing 49 C.F.R. Parts 325 to 399, inclusive, is available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, or by toll-free telephone at (866) 512-1800, at the price of \$64. The volume containing 49 C.F.R. Part 40 is available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, or by toll-free

telephone at (866) 512-1800, at the price of \$56. The volumes are also available at the Internet address <http://www.gpoaccess.gov/cfr/index.html>.

Sec. 7. NAC 706.311 is hereby amended to read as follows:

706.311 1. Except as otherwise provided in NRS 706.351, an authorized carrier shall not:

(a) Charge, demand, collect or receive a greater, lesser or different compensation for the transportation of persons or property or for any service in connection therewith than the rates, fares or charges applicable to the transportation as specified in its tariffs filed and in effect at the time.

(b) Refund or remit in any manner or by any device any portion of the rates, fares or charges so specified except upon orders of the courts or the Authority, or extend to the shipper or person any privilege or facility in the transportation of passengers or property except as specified in the tariffs.

(c) Submit a bid to provide services in any form or manner which is not in conformance with the certificate he holds.

(d) Use any artifice or subterfuge, or billing or accounting practice in lieu of an authorized commission. The fare or rate charged to the passenger or shipper may not be greater than or different from the fare or rate specified in the tariffs in effect at the time because of the authorized commission.

2. An authorized carrier who is a fully regulated carrier may pay a commission or referral fee to a designated agent who arranges for the provision of transportation services by the carrier. Except as otherwise provided in subsection 6, a commission or referral fee authorized pursuant

to this subsection must not exceed 10 percent of the rate, fare or charge specified in the carrier's tariffs for the type of service that the designated agent has arranged for the carrier to provide.

3. A designated agent arranging or providing transportation on the vehicles of any certificated motor carrier shall not charge, demand, collect or receive a greater, lesser or different compensation for the transportation of persons or property or any service in connection therewith than the rates, fares or charges specified in the motor carrier's tariffs.

4. All tickets issued by a carrier or its designated agent must identify the charge to the passenger for the service or transportation purchased. That charge may not be different from the tariff on file with the Authority.

5. A carrier that uses or intends to use the services of a designated agent within this State shall keep a complete list of its designated agents which must be made available for review by the staff of the Authority.

6. An authorized carrier that provides scenic tours may pay a commission or referral fee of up to ~~40~~ 35 percent to a designated agent who arranges for the provision of scenic tours by the carrier. ~~[The commission or referral fee for off-road scenic tours must not exceed 25 percent of the rate, fare or charge specified in the tariffs of the carrier for the scenic tour that the designated agent has arranged for the carrier to provide.]~~

Sec. 8. NAC 706.3613 is hereby amended to read as follows:

706.3613 Except as otherwise provided in NAC 706.3745, the provisions of NAC 706.3613 to 706.3754, inclusive, *and section 3 of this regulation* apply to any county for whom regulation by the Taxicab Authority is not required pursuant to NRS 706.881.

Sec. 9. NAC 706.3747 is hereby amended to read as follows:

706.3747 1. Except as otherwise provided in this subsection, a certificate holder shall require the driver of each taxicab that the certificate holder is authorized to operate to keep a daily trip sheet in a form prescribed by the Authority. The daily trip sheet may be kept in a different form if the certificate holder submits the alternative form to the Authority and the Authority approves that form.

2. A driver shall record on the trip sheet:

(a) At the beginning of each shift:

- (1) His name;
- (2) The unit number of his taxicab;
- (3) The *time stamp required by subsection 5 of NAC 706.3761 to indicate the* time at which the shift began; and

(4) The odometer reading of the taxicab.

(b) During each shift:

- (1) The time, place of origin, requested destination and actual destination, if different from the requested destination, of each trip; and

(2) The number of passengers and amount of fare for each trip.

(c) At the end of each shift:

- (1) The *time stamp required by subsection 5 of NAC 706.3761 to indicate the* time at which his shift ended; and

(2) The odometer reading of the taxicab.

3. A certificate holder shall furnish a trip sheet form for each shift during which a taxicab is operated by a driver.

4. A driver who works for the certificate holder on commission or as an employee shall submit to the certificate holder a completed trip sheet at the end of each shift of that driver.

5. A driver who is an independent contractor shall submit to the certificate holder at the end of each week in which he worked at least one shift a completed trip sheet for each shift worked by that driver during that week.

6. A certificate holder shall retain each completed trip sheet until the end of the calendar year of the year immediately succeeding the year in which the trip sheet was completed. The certificate holder shall make such trip sheets available for inspection by the Authority upon request.

7. If the Authority determines that a taxicab is being operated without a trip sheet in violation of this section, the Authority will cause the taxicab in regard to which the violation occurred to be withdrawn from service for a minimum of 24 hours. A taxicab withdrawn from service pursuant to this subsection must not be placed back in service until the Authority verifies that the certificate holder has furnished a trip sheet for that taxicab.

Sec. 10. NAC 706.3751 is hereby amended to read as follows:

706.3751 1. In addition to the applicable requirements set forth in 49 C.F.R. §§ 391.51, 392.2, 392.4, 392.5 and 392.9 and 49 C.F.R. Parts 390, 393 and 397, a certificate holder shall not allow an employee or independent contractor of the certificate holder to drive a taxicab that the certificate holder is authorized to operate unless the employee or independent contractor:

(a) Is at least 21 years of age and has held for at least 30 days a valid Nevada driver's license or is a border state employee, as that term is defined in NRS 483.035; ~~and~~

(b) Provides to the certificate holder, on or before the date on which the employee becomes employed by the certificate holder as the driver of a taxicab or the independent contractor begins to lease a taxicab from the certificate holder pursuant to NRS 706.473:

(1) A certificate from a licensed physician which is dated not more than 90 days before the date on which the employee becomes employed by the certificate holder as the driver of a taxicab or the independent contractor begins to lease a taxicab from the certificate holder pursuant to NRS 706.473, which demonstrates that the employee or independent contractor is physically qualified to operate a commercial motor vehicle in accordance with 49 C.F.R. § 391.43; and

(2) A copy of the driving record of the employee or independent contractor which is obtained from the Department and which demonstrates that the employee or independent contractor has not, within the 3 years immediately preceding the date on which the employee becomes employed by the certificate holder as the driver of a taxicab or the independent contractor begins to lease a taxicab from the certificate holder pursuant to NRS 706.473:

(I) Been convicted of driving under the influence of an intoxicating liquor or a controlled substance;

(II) Been convicted of reckless driving;

(III) Been convicted of failing to stop and remain at the scene of an accident; or

(IV) Failed to keep a written promise to appear in court for any offense ~~H~~; and

(c) Within the 3 years immediately preceding the date on which the employee or independent contractor submitted an application to the certificate holder to drive a taxicab:

(1) Has not failed to appear for a hearing before the Authority which resulted in the employee being found to have violated a provision of this chapter or chapter 706 of NRS;

(2) Has not been found by the Authority to have violated the provisions of this chapter or chapter 706 of NRS more than five times; and

(3) Has not failed to pay on or before the due date any fine assessed against the employee by the Authority.

2. Each employee or independent contractor shall update annually the documents required pursuant to paragraph (b) of subsection 1 and submit the updated documents to the certificate holder.

3. A certificate holder shall retain a copy of each document that the employee or independent contractor submitted to the certificate holder pursuant to this section until 3 years after the employee's employment has terminated or the independent contractor's lease has expired.

4. The Authority will create and maintain a list of persons who are not qualified to drive a taxicab pursuant to paragraph (c) of subsection 1.

Sec. 11. NAC 706.3753 is hereby amended to read as follows:

706.3753 1. Each lease agreement entered into by a certificate holder and an independent contractor pursuant to NRS 706.473 must:

(a) Be maintained by the certificate holder.

(b) Be in writing and in a form approved by the Authority.

(c) Identify the use to be made of the taxicab by the independent contractor and the consideration to be received by the certificate holder. The use to be made of the taxicab must conform to the authority granted by the certificate to operate the taxicab.

(d) Be signed by each party, or his representative, to the agreement.

(e) Specifically state that the independent contractor is subject to all laws and regulations relating to the operation of a taxicab which have been established by the Authority and other regulatory agencies and that a violation of those laws and regulations will breach the agreement.

(f) Specifically state that the certificate holder is responsible for maintaining:

(1) All required insurance associated with the taxicab and the service which is the subject of the agreement in accordance with NAC 706.191;

(2) A file which contains the qualifications of the independent contractor to drive the taxicab; and

(3) A file for records concerning the maintenance of the taxicab.

(g) Specifically state that the lease agreement does not relieve the certificate holder from any of his duties or responsibilities set forth in this chapter and chapter 706 of NRS.

(h) Specifically state that the taxicab provided pursuant to the lease agreement:

(1) Will be painted with the name, insignia and certificate number of the certificate holder; and

(2) Is in a good mechanical condition that will meet the requirements for operating taxicabs set forth by this State or the county or municipality in which the taxicab will be operated.

(i) Specifically state that the independent contractor shall not transfer, assign, sublease or otherwise enter into an agreement to lease the taxicab to another person.

(j) Specifically state that the independent contractor:

(1) Shall not operate the taxicab for more than 12 hours in any 24-hour period; and

(2) Shall return the taxicab to the certificate holder at the end of each shift to enable the certificate holder to comply with the provisions of NAC 706.380.

(k) Contain any other provision which the Authority may determine to be necessary for the protection of the health and safety of members of the public.

2. If the Authority has reason to believe that a *lease* provision ~~to~~ *required by* this section is being violated, the Authority may, after a hearing:

(a) Impose an administrative fine pursuant to NRS 706.771;

(b) Order the certificate holder or the independent contractor to cease and desist from action taken in violation of this section; or

(c) Revoke or suspend the authority of the certificate holder to operate a taxicab to enter into a lease agreement pursuant to NRS 706.473.

Sec. 12. NAC 706.376 is hereby amended to read as follows:

706.376 During his shift, a driver of a taxicab:

1. Shall not engage in verbal arguments or acts of physical violence.

2. Shall refrain from backing into position in any taxicab stand.

3. Shall refrain from loading passengers at any establishment where a taxicab stand has been established unless he has been through the rotation of the stand. This provision does not apply when there are no taxicabs on the stand.

4. Shall not allow more than two passengers in the front seat of his taxicab and shall not allow more than five passengers in his taxicab at any one time.

5. Shall not knowingly operate a taxicab equipped with a faulty or inaccurate taximeter or a taximeter that shows signs of having been tampered with.

6. Shall not operate a taxicab in which the taximeter is not sufficiently illuminated or the face of the taximeter is obscured to the extent that the entire fare recording device cannot be easily seen by the passenger.

7. Shall not operate a taxicab in which the taximeter does not have a properly attached seal as affixed by the Authority.

8. Shall not operate a taxicab that does not have properly affixed a valid "TX" plate as issued by the Authority.

9. Shall not operate a taxicab if the driver is suffering from any illness or physical or mental disorder that may impair his ability to operate a taxicab safely.

10. Shall not operate a taxicab while taking drugs that may impair his ability to operate a taxicab safely.

11. Shall keep *in his or her possession* a complete and accurate trip sheet as prescribed in NAC 706.3747.

12. Shall not display or distribute any advertising within or on his taxicab that has not been authorized by his employer.

13. Shall not operate a taxicab without having in his or her possession a certificate from a licensed physician which is valid pursuant to the provisions of NAC 706.3751 and which

demonstrates that the driver is physically qualified to operate a commercial motor vehicle in accordance with 49 C.F.R. § 391.43, as adopted by reference in NAC 706.247.